

STATE OF SOUTH CAROLINA

COUNTY OF FAIRFIELD

Kimberly Denise Aragon,

Plaintiff,

vs.

Schneider National Carriers, Inc. and Esaie
Malivert,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A No. 2021-CP-20-_____

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in this action. A copy of the Complaint is attached to this Summons and is herewith served upon you. Your Answer must be in writing and signed by you or by your attorney and must state your address or the address of your attorney if signed by your attorney. You Answer must be served upon the undersigned attorney for the Plaintiffs within thirty (30) days after the service thereof, exclusive of the date of service, at 120 West Washington Street, Post Office Box 1006, Winnsboro, South Carolina 29180.

YOU ARE HEREBY GIVEN NOTICE FURTHER that, if you fail to appear and defend and fail to answer the complaint as required by this Summons within thirty (30) days after the service hereof, judgment by default will be rendered against you for the relief demanded in the Complaint.

COLEMAN & TOLEN, LLC

/s/Creighton B. Coleman

Creighton B. Coleman (SC Bar # 6521)

120 West Washington Street

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Attorney for the Plaintiff

Winnsboro, South Carolina
December 7, 2021

STATE OF SOUTH CAROLINA

COUNTY OF FAIRFIELD

Kimberly Denise Aragon,

Plaintiff,

vs.

Schneider National Carriers, Inc. and Esaie
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Defendant.

IN THE COURT OF COMMON PLEAS

C/A No.: 2021-CP-20-

COMPLAINT
(Jury Trial Demanded)

TO: THE DEFENDANTS ABOVE-NAMED:

THE PLAINTIFF, complaining of the Defendants, will allege as follows:

1. That the Plaintiff, Kimberly D. Aragon, is a citizen and resident of Fairfield County, State of South Carolina.
2. The Defendant, Schneider National Carriers, Inc. (“Schneider Carriers”), on information and belief, is a corporation organized and existing under the laws of the State of Nevada and is licensed and doing business in South Carolina.
3. That upon information and belief, the Defendant, Esaie Malivert, is a resident of Highlands County, State of Florida and was at all times relevant hereto was an employee, servant and/or agent of defendant Schneider National Carriers, Inc.
4. This cause of action arose in Fairfield County, State of South Carolina.

FACTS

5. That on or about December 25, 2019, the Plaintiff was driving a 2015 Chevy automobile traveling west on S.C. 34. The Defendant was traveling south on SEC. 72 in a 2018 Freightliner which upon information and belief was owned by Schneider National Carriers, Inc. That the Defendant came upon a stop sign at the intersection of SEC 72 and S.C. 34 and in a reckless,

wanton, negligent, willful, and careless manner, failed to stop at the stop sign causing the Plaintiff's vehicle to collide with great force with the Defendant's truck and trailer. As a direct and proximate result of the crash from Defendant's negligent, careless, reckless, willful and wanton manner in which he had failed to stop at the stop sign and failed to yield the right of way, and subsequently collided with, the Plaintiff, the Plaintiff sustained personal injuries as more fully outlined below.

FOR A FIRST CAUSE OF ACTION

6. That in operating a motor vehicle on the public roadways, Defendant had a duty to use reasonable and due care in the operation of his vehicle.

7. That the Defendant further had a duty to comply with all applicable traffic laws.

8. That the Defendant was willful, wanton, careless and negligent at the place and time above-mentioned in the following particulars:

- a) In failing to keep a proper lookout;
- b) In failing to abide by applicable traffic laws;
- c) In failing to stop at stop sign;
- d) In failing to yield the right of way;
- e) In failing to take proper evasive action;
- f) In failing to maintain proper control of his vehicle;
- g) In driving a vehicle with defective brakes, or if not defective, in failing to apply the same so as to avoid a collision;
- h) In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances then and there prevailing; and
- i) Such other particulars as may be learned during discovery or at the trial of this matter.

9. As a direct and proximate result of the Defendant's negligent, careless, grossly negligent, willful, wanton, reckless, and/or unlawful acts as described more fully above, Plaintiff suffered extensive pain, suffering, mental anguish and discomfort; spent money for medical care and treatment; was unable to enjoy normal life activities; will require future medical treatment for her injuries and suffered such other actual, consequential, and/or special damages as may be learned during discovery or at the trial of this matter.

FOR A SECOND CAUSE OF ACTION

10. Plaintiff hereby re-alleges paragraphs 1 through 9 of the Complaint are realleged as fully as if restated verbatim

11. Defendant, Schneider National Carriers, Inc., was the employer of defendant, Esaie Malivert, at the time of the aforesaid collision on December 25, 2019, and defendant, Esaie Malivert, was acting in the ordinary course and scope of his employment for defendant, Schneider National Carriers, Inc., at the time of said collision, such that by operation of law, defendant, Schneider National Carriers, Inc., is legally responsible for the conduct, acts and omissions of defendant, Esaie Malivert, as its employee, servant and/or agent, and defendant, Schneider National Carriers, Inc., is further included as a defendant in this civil action to the extent that discovery may indicate any direct negligence, recklessness and/or carelessness in the inspection, maintenance and/or repair of its vehicle; any negligence, recklessness and/or carelessness in the entrustment of its vehicle; and/or any other negligent, reckless and/or careless conduct, acts, omissions or statutory or regulatory violations of defendant, Schneider National Carriers, Inc., that constituted a direct and proximate cause of the subject collision and the injuries and damages sustained by Plaintiff as a result thereof.

12. As a direct and proximate result of the negligence, recklessness, carelessness and statutory and/or regulatory violations of defendant, Schneider National Carriers, Inc. and/or defendant, Esaie Malivert as its employee, servant and/or agent, Plaintiff has sustained serious and

painful injuries in the aforesaid accident, has suffered physical pain, discomfort, mental anguish and emotional distress, and these will or may continue in the future and are permanent; has incurred substantial expenses for hospitals, doctors and related medical care, and in the future she will or may continue to incur such expenses in an effort to be cured and healed; has suffered a loss of enjoyment of life, some or all of which losses will or may continue in the future and are permanent; and has been unable to perform all of the usual and personal activities and affairs of a woman of her age and position in life, and in the future she will or may continue to be unable to perform some or all of such activities and affairs.

13. The Plaintiff is informed and believes that she is entitled to judgment against the Defendants for actual damages plus a reasonable sum of punitive damages.

WHEREFORE, the Plaintiff prays for judgment against the Defendants for actual and punitive damages in an amount to be determined by a jury; for the costs of this action; and for such other and further relief as this Court deems just and proper.

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/s/Creighton B. Coleman

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